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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,335	07/31/2001	Thomas E. Anderson	41007.P006	4127

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EXAMINER
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PEARSON, YVETTE B

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/920,335	<b>Applicant(s)</b> ANDERSON ET AL.	
	<b>Examiner</b> Yvette Pearson	<b>Art Unit</b> 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 - 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. Claims 1- 38 are presented for examination in the application.

Acknowledgement is made of the Information Disclosure document filed July 31, 2001.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Collin et al (US 6,314,475).
3. As per Claims 1 and 17, Collin teaches a Computer Communications Network Management System comprising a first network device *communicatively coupled* to a remote second network device; wherein a network interface module links the data stream between the first and second network devices while adjusting internal network device parameters for optimizing ongoing communications between the first and second network devices (Column 4, Lines 38 – 48; Column 3, Lines 29 – 35; Column 4, Lines 52 – 55.)

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4. As per Claims 2, and 18, Collin teaches the Communications Network Management System that includes a Computer Communication System (Figure 1, #100) comprising a software module consisting of a Modem Monitor/Control Application (Figure 1, # 110) and a Modem Monitor/Control Interface (Figure 1, #112) that utilizes diagnostic software to monitor a first group of network traffic and to configure the first networking device ([Modem] Figure 1, #108) to attain optimal performance through the communication channel (Column 5, Lines 63 – 67; Column 6, Lines 1 - 3; Column 5, Lines 48 – 53.)

5. As per Claims 3 and 19, Collin teaches the Communications Network Management System that comprises computer communication across nodes of a network such as a Peer-to-Peer network ([Local Computer System] Figure 5, #501; [Remote Computer System] Figure 5, #503) to provide the transmission of data between network nodes that are separate and distinct (Column 8, Lines 28 – 33.)

6. As per Claims 4 and 20, Collin teaches the Communications Network Management System that includes a Simple Network Management Protocol that utilizes a SNMP server (Figure 7, #708) as a system administrator (first client) to monitor and control network traffic to second clients across the network (Column 8, Lines 64 – 66; Column 9, Lines 1 – 5; Figure 7.)

7. As per Claims 5 and 21, Collin teaches the Communications Network Management system that includes a Simple Network Management Protocol that serves as the communication protocol that utilizes a communication server, commonly termed as router, ([SNMP server] Figure 7, #708) as its first networking device (Column 9,

Lines 6 – 10.)

8. As per Claims 6, 22, 32 and 38, Collin teaches the Communications Network Management System wherein the Modem Monitor/Control Application (Figure 1, #110) performs various diagnostics on the local modem (first network device) to improve network traffic transmission whereby the Modem Monitor/Control Interface (Figure 2, #112) monitors (*monitoring of network traffic involves monitoring of various network traffic metrics*) and changes modem parameters to obtain optimal execution among the communication channels Column 5, Lines 48 – 53, Lines 63 – 67; Column 6, Lines 1 – 3, Lines 25 – 27.)

9. As per Claims 7 and 25, Collin teaches the Communications Network Management System wherein the Modem Monitor/Control API of the Modem Monitor/Control Interface (Figure 2, #200) provides the code for monitoring and controlling the modem during its operation whereby configuring modem parameters such as the MSE to maintain uninterrupted network services (reliability) and the baud rate to reflect transmission speeds (performance) provide an accurate view of service operations (Column 6, Lines 30 – 35, Lines 38 – 41.)

10. As per Claims 8 and 23, Collin teaches the Communications Network Management System wherein the monitoring of network traffic based on network traffic metrics implemented by Client Computer Communication System (Figure 5, #506) is performed at the first modem ([local modem] Figure 5, #500.)

11. As per Claims 9, 24 and 33, Collin teaches the Communications Network Management System wherein the monitoring of network traffic based on network traffic

metrics implemented by the Modem Monitor/Control Interface (Figure 5, #512) allows cooperative tasks to be controlled away from said local networking device at a remote device in a Peer-to-Peer network (Column 25 – 27, Lines 32 – 35; Figure 5, #504.)

12. As per Claims 10 and 26, Collin teaches the Communications Network Management System wherein the second network management device ([remote modem], Figure 5, #502), away from said first networking device ([local modem], Figure 5, #500) with respect to services not provided by local modem to said first group of network traffic, is regulated to monitor second network traffic to determine service level deficiencies of first networking device, and whereby the second network management device is dynamically regulated by the Modem Monitor/Control Interface of the Server Computer Communication System (Figure 5, #512; Figure 2, #112) thereby directing modem services and supporting changes to modem parameters to obtain optimal performance for the transmission of the second network traffic (Column 6, Lines 30 – 35, Lines 44 – 49, Lines 8 - 15.)

13. As per Claims 11 and 35, Collin teaches the Communications Network Management System wherein the modems of the first and second network devices ([respectively, local and remote devices], Figure 5, #500/502) are separate and distinct network devices (Column 4, Lines 52 – 55.)

14. As per Claims 12 and 36, Collin teaches the Communications Network Management System wherein the Modem (Figure 7, #702) serves as the first (local) networking device to the Computer System - Application (Figure 7, #704), such that said modem is used also in remote operations as a second networking device by Computer

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System (Figure 7, #700) through the use of modem web page (Figure 7, # 706);  
(Column 8, Lines 64 – 70; Column 9, Lines 1 –2.)

15. As per Claims 13 and 27, Collin teaches the Communications Network Management System wherein a second network management device ([remote modem], Figure 4, #404), away from the first network management device ([local modem], Figure 4, #402) *moderates the amount of the network traffic to be regulated* by enabling functionality of the communication system through the transmission of modem diagnostics and control information (Column 7, Lines 61 – 67; Column 8, Lines 1 – 2.)

16. As per Claims 14 and 28, Collin teaches the Communications Network Management System wherein a software module of the communications systems regulates a first networking device with respect to services provided by such device to a second networking device (Column 3, Lines 23 – 28; Column 4, Lines 11 – 18.)

17. As per Claims 15, 29 and 34, Collin teaches the Communications Network Management System wherein a Server Computer Communication System (Figure 5, #512) regulates the second networking device ([server modem], Figure 5, #502) with respect to services provided by such device to a second group of network traffic to and from the modem (Column 2, Lines 40 – 48; Lines Column 8, Lines 35 – 43.)

18. As per Claims 16 and 30, Collin teaches the Communications Network Management System wherein the network traffic passing through a second network management device ([remote modem] Figure 5, #502) is regulated by the Modem Monitor/Control Interface of the Server Computer Communication System (Figure 5, #512; Figure 2, #112), thereby dynamically moderating modem services that provide

various diagnostics that monitor modem parameters that change in real time while transmitting a data stream (Column 6, Lines 30 – 41.)

19. As per Claims 31 and 37, Collin teaches the Computer Communications Network Management System wherein a Local Computer System (Figure 5, #501) comprising a software module consisting of a Modem Monitor/Control Application and a Modem Monitor/Control Interface (Figure 5, #506) that utilizes diagnostic software to monitor a first group of network traffic and to configure the first networking device ([local modem] Figure 5, #500) to attain optimal performance through the communication channel (Column 5, Lines 63 – 67; Column 6, Line 1; Column 5, Lines 48 – 53), such that the second network management device ([remote modem], Figure 5, #502), away from said first networking device and with respect to services not provided by local modem to said first group of network traffic, is regulated by the Modem Monitor/Control Interface of the Server Computer Communication System (Figure 5, #512) to monitor and transmit second network traffic with regard to inadequate service levels of first networking device, and whereby the second network management device implements modem services based on upgraded changes to modem parameters to obtain optimal performance for the transmission of the second network traffic (Column 6, Lines 30 – 35, Lines 44 – 49, Lines 8 - 15.)

Thus Collin discloses all limitations of the rejected claims and therefore anticipates the subject matter of Claims 1 - 38.

### ***Conclusion***



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20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2001/0042123, (Moody et al) discloses a method of assigning priorities for the allocation of server resources.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvette Pearson whose telephone number is 571-272-4227. The examiner can normally be reached on 9:00am-5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Cuchlinski can be reached on 571-272-3925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4227.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yvette Pearson

Examiner

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